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Letter dated 12 May 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 10 April 2002 (S/2002/378).

The Counter-Terrorism Committee has received the attached supplementary report from Belgium, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

[Original: French]

Letter dated 24 April 2003 from the Permanent Representative of Belgium to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

I have the honour to transmit herewith the second report of Belgium on the implementation of Security Council resolution 1373 (2001) (see enclosure).

The report provides answers to the questions in the letter addressed to me by your predecessor, Sir Jeremy Greenstock.

(*Signed*) Jean **de Ruyt**
Ambassador
Permanent Representative of Belgium to the United Nations

Enclosure

Second report of Belgium on the implementation of Security Council resolution 1373 (2001)

Acting under Chapter VII of the Charter of the United Nations,

Decides that all States shall:

(a) Prevent and suppress the financing of terrorist acts;

• Paragraph 1 (a):

Are the provisions of Belgian legislation giving effect to the resolution equally applicable in the different federal units of Belgium?

The legislation giving effect to this resolution is indeed equally applicable throughout the country. This is because criminal law remains a federal matter (that is, it is in the hands of the central Government).

Please explain how Belgium will deal with funds which do not originate from an offence connected with terrorism, but are used for supporting terrorism whether inside or outside Belgium, and outline any relevant legal provisions on this matter.

Two categories of funds are involved: firstly, funds belonging to the individuals or entities on the appropriate United Nations (see resolution 1267 (1999) and subsequent resolutions) or European Union lists, and, secondly, other funds.

In the case of funds belonging to the individuals or entities on the appropriate United Nations list, please refer to the answer to paragraph 1 (c) of these questions. In the case of funds belonging to individuals on the European Union's list, article 2 (1) of Council Regulation (EC) No. 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism applies. In addition to requiring the freezing of all funds belonging to, or owned or held by, a natural or legal person, group or entity included in the list drawn up by a decision of the Council of the European Union, it requires that no funds, other financial assets or economic resources should be made available, directly or indirectly, to, or for the benefit of, a natural or legal person, group or entity included in that list.

As of 28 December 2001, this Regulation is binding in its entirety and directly applicable in every member State. Each member State determines the sanctions to apply if the Regulation is infringed.

Belgium adopted a royal decree of 2 May 2002 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism, on the basis of the law of 11 May 1995 on the implementation of decisions of the United Nations Security Council. The royal decree stipulates that Council Regulation (EC) No. 2580/2001, adopted on the basis of Security Council resolution 1373 (2001), shall govern funds, other financial assets or economic resources held by a person or entity who or which commits, or attempts to commit, terrorist acts, or participates in or facilitates the commission of such acts included in the list drawn up by a decision of the Council of the European Union under the terms of Regulation (EC) No. 2580/2001.

In the case of funds not corresponding to the description above, the information transmitted to the Belgian authorities, and more particularly to prosecutors and judges, indicates that Belgian law regarding such violations applies. The applicable provisions are set out in greater detail in paragraphs 1 (b), (c) and (d) below.

(b) Criminalize the wilful provision or collection, by any means, directly or indirectly, of funds by their nationals or in their territories with the intention that the funds should be used, or in the knowledge that they are to be used, in order to carry out terrorist acts;

• Paragraph 1 (b):

□ Is the provision or collection of funds by nationals of Belgium or in Belgian territory in support of terrorism prohibited by law? Does the Penal Code provide for a specific offence of collecting funds for terrorism? If not, does Belgium intend to introduce a specific offence criminalizing this?

Belgium currently has no specific provisions outlawing terrorism or the funding of terrorism. One of the effects of the transposition into Belgian law of the framework decision on the definition of terrorist acts will be to make the financing of terrorism a crime. Transposition should occur soon. While the law does not explicitly ban the provision or raising of funds for terrorist purposes, it does allow such acts to be criminalized as acts aiding and abetting violations, which is against Belgian law.

(c) Freeze without delay funds and other financial assets or economic resources of persons who commit, or attempt to commit, terrorist acts or participate in or facilitate the commission of terrorist acts; of entities owned or controlled directly or indirectly by such persons; and of persons and entities acting on behalf of, or at the direction of such persons and entities, including funds derived or generated from property owned or controlled directly or indirectly by such persons and associated persons and entities;

Article 2 (1) of Council Regulation (EC) No. 2580/2001 of 27 December 2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism, in addition to requiring the freezing of all funds belonging to, or owned or held by, a natural or legal person, group or entity included in the list drawn up by a decision of the Council of the European Union, also requires that no funds, other financial assets or economic resources should be made available, directly or indirectly, to, or for the benefit of, a natural or legal person, group or entity included in that list.

As of 28 December 2001, this Regulation is binding in its entirety and directly applicable in every member State. Each member State determines the sanctions to apply if the Regulation is infringed.

Belgium adopted a royal decree of 2 May 2002 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism, on the basis of the law of 11 May 1995 on the implementation of decisions of the United Nations Security Council. The royal decree stipulates that Council Regulation (EC) No. 2580/2001, adopted on the basis of Security

Council resolution 1373 (2001), shall govern funds, other financial assets or economic resources held by a person or entity who or which commits, or attempts to commit, terrorist acts, or participates in or facilitates the commission of such acts included in the list drawn up by a decision of the Council of the European Union under the terms of Regulation (EC) No. 2580/2001.

It should be noted that the legal basis for the decree of 2 May 2002 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism is the law of 11 May 1995, since it implements decisions of the United Nations Security Council, in this case, resolution 1373 (2001).

The decree-law of 6 October 1944 regulating any and all transfers abroad of goods and assets from Belgium provides the legal basis in cases where specific legislation to implement European Union measures is pending (for example, to freeze the assets of Milosevic and members of his family, or senior Burmese officials), or where Belgium is unilaterally imposing measures on another country.

- Paragraph 1 (c):

  - What measures has Belgium taken or proposed to take under the decree-law of 6 October 1944 on foreign-exchange control to freeze funds in connection with EU Regulation 2580/2001, of 27 December 2001, regarding specific restrictive measures directed against certain persons and entities with a view to combating terrorism?

The legal basis for the enforcement of Regulation (EC) No. 2580/2001 is the law of 11 May 1995, because the Regulation was adopted on the basis of Security Council resolution 1373 (2001).

  - Does the Royal Decree of 17 February 2000 have general application in regard to freezing of funds of persons or entities supporting terrorism?

No, this royal decree relates to the Taliban and al-Qa'idah, pursuant to Security Council resolution 1267 (1999) and subsequent resolutions.

(d) Prohibit their nationals or any persons and entities within their territories from making any funds, financial assets or economic resources or financial or other related services available, directly or indirectly, for the benefit of persons who commit or attempt to commit or facilitate or participate in the commission of terrorist acts, of entities owned or controlled, directly or indirectly, by such persons and of persons and entities acting on behalf of or at the direction of such persons;

Existing legislation is used to combat the activities in question, as described in connection with paragraph 1 (a).

- Paragraph 1 (d):

  - Please explain how the existing legislation relating to criminal conspiracy and money-laundering prohibits Belgian nationals or any other persons or entities from making available funds, assets, economic resources and financial or related services for terrorist purposes.

The Belgian legal system does not have the effect of directly outlawing the financing of terrorism, but the acts involved in financing terrorism are covered by the outlawing of criminal conspiracy and involvement in organized crime. If suspicious financial transactions are discovered through investigation or information, their perpetrators are prosecuted on the basis of the law on money-laundering, which also targets funds connected with terrorism, and of criminal legislation against conspiracy.

- Are natural or legal persons (e.g. financial institutions, attorneys, notaries and other intermediaries) required to report suspicious transactions to the public authorities, and if so, what penalties apply to persons who omit to report, either wilfully or by negligence?

Natural or legal persons are obliged to report suspicious transactions under articles 2 and 2 bis of the law of 11 January 1993 on preventing the use of the financial system for money-laundering. The law covers, inter alia, financial institutions (in the broad sense, art. 2), notaries and other non-financial professions (art. 2 bis), but does not yet cover lawyers.

Lawyers will be covered by anti-money-laundering legislation once the bill transposing the second European Directive against money-laundering into national law has been adopted. The intention is to limit the application of anti-money-laundering measures to lawyers to what is contained in the directive (legal defence rights would be protected).

The penalties attached to offences are not criminal sanctions, but the administrative and disciplinary sanctions provided for in article 21 of the law of 11 January 1993, which draws distinctions between:

- **Institutions with authority to monitor and oversee matters, such as the Commission Bancaire et des Finances (CBF). Such authorities determine the type of sanctions to apply, on the basis of the law;**
- **Other declarants. It is left to the Ministry of Finance or the monitoring authority to determine sanctions (art. 21: publication of measures/ administrative penalties)**

- How does the financial tracking system ensure that funds received by bodies such as charities are not diverted from their stated purposes to terrorist activities?

If there is sufficient evidence, the judge may order a seizure of funds, followed by confiscation if the findings in the case so dictate.

2. Decides also that all States shall:

(a) Refrain from providing any form of support, active or passive, to entities or persons involved in terrorist acts, including by suppressing recruitment of members of terrorist groups and eliminating the supply of weapons to terrorists;

- Paragraph 2 (a):

- Does the Belgian Penal Code have provisions for the prevention of aiding or abetting of terrorist organizations?

There are no specific provisions to achieve this. Since terrorist organizations come under the definition of "criminal organization" as

described in article 324 bis of the Penal Code, belonging to or supporting such organizations is a punishable offence.

Please outline the relevant provisions of the law of 1 August 1979 on serving in a foreign army or troop situated in the territory of a foreign State.

Recruitment for any foreign army or troop situated in the territory of a foreign State, or any act intended to aid or abet such recruitment, is banned in Belgium. Without prejudice to the application of articles 135 quater and 135 quinquies of the Penal Code, the ban does not apply to a foreign State recruiting its own nationals.

The following also are banned: (a) recruitment outside Belgium by a Belgian national of other Belgian nationals for any foreign army or troop situated in the territory of a foreign State, or any act intended to aid or abet such recruitment; (b) enlistment outside Belgium of Belgian nationals to serve in any foreign army or troop situated in the territory of a foreign State, to the extent that a decision of the Goverament prohibits such enlistment of Belgian nationals.

Military technical assistance provided by the Belgian Government to a foreign State, and Belgian participation in international policing operations decided on by public-law bodies of which Belgium is a member, are not covered by the prohibitions contained in the law on mercenaries.

Amendments are currently being made to extend the scope of that law. They should enter into force in the next few months.

Please outline Belgian law on the possession and disposition of weapons within Belgian territory.

Firearms are divided into three categories: freely sold, subject to controlled authorization (see below) and prohibited (updated version of Law of 3 January 1933, available at www.just.fgov.be/index1.htm).

The provisions governing authorizations are included in the coordinated Circular of 30 October 1995 relating to the application of the legal provisions and regulations relating to weapons.

Natural or legal persons wishing to acquire a weapon subject to authorization must submit a request describing the weapon and its purpose and provide a certificate of good conduct. Once the admissibility of the request has been examined (the applicant must be an adult without a criminal record), the Province Governor in charge of issuing authorizations conducts an investigation based on the opinions of the bourgmestre and the Crown Procurator for the applicant's jurisdiction. The bourgmestre has to give an opinion based on the nature of the activity to be practised (particularly whether the latter constitutes a threat to public order or security) and whether the premises to be used for the activity meet legal standards (especially in terms of administrative authorizations concerning planning permission, etc).

The Procurator has to give an opinion on the person submitting the request: whether he/she is known and respected in the commune or has ever been the subject of a criminal investigation. Legal persons are checked to see if they have come to the attention of the legal authorities.

On the basis of these various opinions, the Governor accepts, rejects or restricts the request for authorization. That decision may be appealed before the Minister of Justice.

Successful requests for authorization are recorded in a register (RCA). In most cases, any transfer of weapons must also be recorded in the same register.

It should also be pointed out that police departments linked to the national criminal information system (SICN) through the federal police have direct access to the register.

- Please outline the measures, both legislative and practical, preventing entities and individuals from recruiting, collecting funds or soliciting other forms of support for terrorist activities to be carried out inside or outside Belgium including, in particular:

- the carrying out, within or from Belgium, of recruiting, collecting of funds and soliciting of other forms of support from other countries; and

- deceptive activities such as recruitment based on a representation to the recruit that the purpose of the recruitment is one (e.g. teaching) different from the true purpose, and collection of funds through front organizations.

Although there are no such legislative or practical measures, activities classified as offences in the Penal Code may be prosecuted by the Belgian authorities. Recruitment, for instance, may be prosecuted under the law on militias and criminal organizations. The collection of funds abroad or by front organizations comes under the application of European Regulation 2580 that provides for the seizure of funds that are suspicious or reported as being such.

(b) Take the necessary steps to prevent the commission of terrorist acts, including by provision of early warning to other States by exchange of information;

- Paragraph 2 (b):

- Please explain if Belgium has any arrangements, apart from cooperation within Europe, to implement this subparagraph.

The practical arrangements for providing early warnings to other States involve communicating through the terrorist liaison officer if the State concerned has an embassy or other representation in Brussels, and/or the forwarding of information through Belgian liaison officers abroad. The information is communicated through Interpol channels if sufficiently urgent.

The State Security Service works closely with its counterparts abroad through specific operational arrangements.

The newly established Federal Prosecutor's Office is responsible for, inter alia, counter-terrorism and is also able to cooperate with other States.

(c) Deny safe haven to those who finance, plan, support, or commit terrorist acts, or provide safe havens;

- Paragraph 2 (c):

- The report does not make clear whether the provisions of the Convention relating to the Status of Refugees are incorporated into Belgian law. Could

Belgium please elaborate on this and explain what measures and procedures are taken to identify refugees. How would a person be treated if he or she was charged with a terrorist crime to which the death penalty applies in the country where it was committed?

Refugees are identified on the basis of a file that must be supported by as much factual information as possible, which will be checked subsequently.

If a person whose file is being processed has been previously charged with a terrorist crime to which the death penalty applies in his/her country where it was committed, he/she will not be granted refugee status but will not be sent back to that country. If a person who has already been granted refugee status is found to be the perpetrator of terrorist acts abroad, he/she will lose refugee status but will not be escorted or extradited to a country where the death penalty would apply.

The Geneva Refugee Convention is part of Belgian law, and international treaty law takes precedence over domestic law. The law governing the asylum procedure is described below.

Refugees are identified in two phases: Firstly, the Alien's Office (Ministry of the Interior) decides which requests are admissible; decisions are appealable to the Commissioner-General for Refugees (an independent body). Secondly, decisions concerning final granting of refugee status may also be appealed before the Commissioner-General for Refugees. Final decisions taken by the Commissioner-General may be appealed before the Standing Appeals Committee for Refugees. Cases may also be brought before the Council of State, which is the supreme administrative court, at any stage.

A person charged with a terrorist crime to which the death penalty applies in the country where it was committed is treated according to one of the following categories:

- **The requests of asylum-seekers who commit terrorist offences are examined in the light of article 1 (F) of the Geneva Convention;**
- **Following consultation with the Commissioner-General for Refugees, the Ministry of the Interior may deny entry or temporary residence to asylum-seekers who constitute a threat to public order or national security. Security measures may be applied;**
- **A person with refugee status who has committed a terrorist offence in another country cannot be extradited if he/she would face the death penalty in the country where the crime was committed;**
- **A person who has been granted refugee status can never be extradited to his/her country of origin;**
- **A person with refugee status who concealed essential information (such as a terrorist offence) when his/her request was considered may have his/her case re-examined. Refugee status could be revoked if the nature of the omissions/falsehoods was such as to call into question the decision to grant refugee status. To date, no one has had refugee status revoked for omitting information about criminal terrorist activities;**

– **Refugees whose refugee status has been revoked are in the same situation as foreign nationals whose extradition is requested for a terrorist crime to which the death penalty applies. Such individuals would not be extradited;**

– **Expulsion measures may be applied to a person with refugee status. In the event of a threat to public order or national security, refugees may be the subject of expulsion measures but would not be sent back to their country of origin under any circumstances. It shall be the responsibility of the refugees concerned to seek a State that agrees to admit them.**

(d) Prevent those who finance, plan, facilitate or commit terrorist acts from using their respective territories for those purposes against other States or their citizens;

• Paragraph 2 (d):

Are the relevant provisions of the Belgian Penal Code applicable in all the following circumstances:

• Acts committed outside Belgium by a person who is a citizen of, or habitually resident in, Belgium (whether that person is currently present in Belgium or not);

• Acts committed outside Belgium by a foreign national who is currently in Belgium?

The provisions of the Penal Code (art. 4 of the Penal Code and arts. 7 et seq. of the preliminary title of the Code of Penal Procedure) are applicable to acts committed outside Belgium by a Belgian citizen. A Belgian citizen guilty of committing a criminal act outside the territory of the Kingdom may therefore be prosecuted in Belgium, in particular where the act has been characterized as a crime or offence under Belgian law and is punishable under the laws of the country in which it was committed and where the perpetrator is present in Belgium.

The provisions of the Penal Code are not applicable to foreign nationals who have committed acts outside Belgium and who are resident in the Kingdom, except in certain specific cases (arts. 10 et seq. of the preliminary title of the Code of Penal Procedure). The competence of Belgian courts, moreover, is not necessarily recognized. The State concerned by such acts or by the nationality of the perpetrator may, however, be notified of the acts and an extradition proceeding may be initiated.

(e) Ensure that any person who participates in the financing, planning, preparation or perpetration of terrorist acts or in supporting terrorist acts is brought to justice and ensure that, in addition to any other measures against them, such terrorist acts are established as serious criminal offences in domestic laws and regulations and that the punishment duly reflects the seriousness of such terrorist acts;

• Paragraph 2 (e):

Please provide a progress report on the amendments to the Belgian Penal Code to give effect to the framework decision on combating terrorism. What are the penalties proposed for terrorist crimes?

The entire draft legislation for giving effect to the framework decision of the European Union in Belgian law was introduced in the houses of parliament on 14 March 2003 for adoption as early as possible (Doc. 50 2364/001).

(f) Afford one another the greatest measure of assistance in connection with criminal investigations or criminal proceedings relating to the financing or support of terrorist acts, including assistance in obtaining evidence in their possession necessary for the proceedings;

• Paragraph 2 (f):

Does Belgium have any specific legislative measures or bilateral conventions concerning mutual legal assistance in criminal proceedings or criminal investigations with countries that are not members of the European Union?

Belgium has bilateral conventions concerning mutual legal assistance with the following countries: Algeria, Canada, Morocco, Tunisia and the United States of America. Other agreements are envisaged with a view to expanding the network of conventions.

(g) Prevent the movement of terrorists or terrorist groups by effective border controls and controls on issuance of identity papers and travel documents, and through measures for preventing counterfeiting, forgery or fraudulent use of identity papers and travel documents;

• Paragraph 2 (g):

Could Belgium please provide the Committee with information on the mechanism for inter-agency cooperation between the authorities responsible for narcotics control, financial tracking and security with particular regard to the border controls preventing the movement of terrorists.

While the type of inter-agency cooperation described in the question does not exist, where necessary, information is exchanged in connection with judicial investigations or on an ad hoc basis.

There are two main coordinating bodies: the Ministerial Committee on Intelligence and Security and the Intelligence and Security College. The Prime Minister chairs the Committee, whose members are the Ministers of Justice, Defence and the Interior and the Minister for Foreign Affairs. Other members of the Government may be invited on the basis of their areas of competence. The Committee sets the overall policy on intelligence and the priorities of the State Security Service and the General Intelligence and Security Services of the Armed Forces. It also coordinates their activities.

The members of the College are senior officials of the same administrative branches and a member of the Office of the Federal Prosecutor. The College is responsible for implementing the decisions of the above-mentioned Committee.

3. Calls upon all States to:

(a) Find ways of intensifying and accelerating the exchange of operational information, especially regarding actions or movements of terrorist persons or networks; forged or falsified travel documents; traffic in arms, explosives or sensitive materials; use of communications

technologies by terrorist groups; and the threat posed by the possession of weapons of mass destruction by terrorist groups;

• Paragraph 3 (a):

□ The report states that bilateral agreements must be approved by the Belgian Parliament before they can enter into force. Could Belgium give an indication of the countries with which it has signed agreements, and when they will enter into force?

Judicial cooperation agreements cover three levels: the European Union, the candidate countries and other countries. In the case of the European Union and candidate countries, multilateral conventions (essentially those of the Council of Europe, though with closer cooperation for the European Union member States) are in force. They include the 1959 European Convention on Mutual Assistance in Criminal Matters. In the case of other countries, some have signed the Council of Europe Convention (Russia, Israel and Australia) and others have bilateral agreements (Canada, the United States of America, Algeria, Tunisia and Morocco). A bilateral convention with Hong Kong has recently been initialled.

In the more specific matter of judicial cooperation in extradition, as at 22 September 2002, Belgium had bilateral extradition treaties with the following countries:

Algeria, Argentina, Australia, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Cuba, Ecuador, El Salvador, Fiji, Guatemala, Honduras, India, Kenya, Lebanon, Liberia, Morocco, Mexico, Nicaragua, Pakistan, Paraguay, Peru, Romania, San Marino, Suriname, Swaziland, Tanzania, Thailand, Tunisia, Venezuela, the United States of America, Yugoslavia (though the documents relating to extradition are undoubtedly no longer applicable to Croatia, Slovenia or the former Yugoslav Republic of Macedonia, since they have ratified the 1957 European Convention on Extradition) and the United Kingdom (the treaty is no longer valid between Belgium and the United Kingdom, but it remains applicable to some present British colonies and to some former British colonies, at their express or tacit request).

(b) Exchange information in accordance with international and domestic law and cooperate on administrative and judicial matters to prevent the commission of terrorist acts;

• Paragraph 3 (b):

□ Please elaborate on the existing arrangements for exchange of information as required under this subparagraph.

Exchange of information takes place largely through cooperation within the European Union, and to a lesser degree through the bilateral agreements described in connection with paragraphs 2 (f) and 3 (a). The main distinction is that exchange of information and meetings within the European Union are regular in nature, whereas matters dealt under bilateral agreements are on a case-by-case basis. For some countries, both arrangements operate side by side. Examples are Canada and the United States of America, with which Belgium has bilateral agreements but which also have a structured dialogue with the European Union in which terrorism is regularly discussed.

(c) Cooperate, particularly through bilateral and multilateral arrangements and agreements, to prevent and suppress terrorist attacks and take action against perpetrators of such acts;

• Paragraph 3 (c):

Please inform the Counter-Terrorism Committee whether Belgium has concluded any bilateral agreements in regard to cooperation on terrorism-related matters.

There are no bilateral agreements dealing specifically with terrorism, but there is extensive cooperation within the European Union and with the candidate countries. In addition, the existing bilateral judicial cooperation agreements can cover terrorism-related activity, without being confined to such activity.

Informal contact and exchanges of information between Belgian and foreign judicial authorities in charge of combating terrorism are more regular, particularly at the level of the Office of the Federal Prosecutor; there is no need to formalize them through a specific agreement.

(d) Become parties as soon as possible to the relevant international conventions and protocols relating to terrorism, including the International Convention for the Suppression of the Financing of Terrorism, of 9 December 1999;

• Paragraph 3 (d):

Please provide the Counter-Terrorism Committee with an indication of the time frame for ratifying or acceding to the international conventions which Belgium has not yet ratified or acceded to.

The matter of the International Convention for the Suppression of the Financing of Terrorism will be ready for consideration by the two houses of parliament once the Council of State has delivered its opinion on it. This is likely to take place during May 2003.

The other agreements (Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988, the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988, the Convention on the Marking of Plastic Explosives for the Purpose of Detection, signed at Montreal on 1 March 1991 and the International Convention for the Suppression of Terrorist Bombings, adopted in New York on 15 December 1997) have been given priority status by the political commitment of the European Union heads of State and Government to ratifying or acceding to all the United Nations conventions on this subject. The ratification packages are being finalized.

(e) Increase cooperation and fully implement the relevant international conventions and protocols relating to terrorism and Security Council resolutions 1269 (1999) and 1368 (2001);

• Paragraph 3 (e):

Are all the crimes set forth in the international conventions included as extraditable offences in bilateral treaties to which Belgium is party?

Extradition on the basis of the crimes in question is considered only if the requesting or requested country is itself a party to those international conventions. The bilateral conventions still in force between Belgium and certain other countries and the 1959 Council of Europe Convention retain their original form and have not been adapted to take account of these new extradition cases. The international counter-terrorism conventions are an extra "layer" which adds these new offences to the list of grounds for extradition and may replace the provisions of bilateral conventions or the Council of Europe Convention.

(f) Take appropriate measures in conformity with the relevant provisions of national and international law, including international standards of human rights, before granting refugee status, for the purpose of ensuring that the asylum-seeker has not planned, facilitated or participated in the commission of terrorist acts;

- Paragraph 3 (f):

  - Does Belgian legislation have any provisions for excluding or expelling foreign terrorists found in its territory?

The response relating to paragraph 2 (c) has already dealt with the case of terrorists seeking asylum. Foreign nationals in the territory of Belgium are subject to the provisions of the law of 15 December 1980 governing the admission of foreign nationals. A foreign national who commits terrorist acts in Belgium is liable to the penalties laid down by law, described in the response in paragraph 2 (a) above. Foreign nationals in Belgium illegally who have committed terrorist acts outside Belgium are liable to expulsion measures ordered by the Minister of the Interior for various reasons, including public order. However, because of the principle of respecting human rights, a suspected terrorist cannot be returned to his or her country of origin if that country applies the death penalty for that crime, or has rules which provide for the death penalty.

(g) Ensure, in conformity with international law, that refugee status is not abused by the perpetrators, organizers or facilitators of terrorist acts, and that claims of political motivation are not recognized as grounds for refusing requests for the extradition of alleged terrorists;

- Paragraph 3 (g):

  - Please outline Belgium's legal provisions on extradition.

  - Please explain whether Belgium's reservation in the European Convention on the Suppression of Terrorism done at Strasbourg on 27 January 1977 is considered to be in effect vis-à-vis the States parties to that Convention and whether it reflects Belgium's practice with regard to other States.

(1) Where Belgium requests extradition from another country, the Belgian authorities make such a request once the wanted individual has been detained in that country in response to an international alert based on a Belgian arrest warrant or a sentence delivered by a Belgian court. In such cases, Belgium acts in accordance with the international standards of the applicable extradition conventions and the requirements of the national law in force in the country receiving the extradition request.

(2) Where Belgium receives an extradition request, Belgian national law and the extradition conventions require compliance with the following principles:

- There must be an extradition treaty between Belgium and the country making the request;
- The individual concerned can be detained only after exequatur of the foreign arrest warrant;
- There must be dual criminality, in other words, the acts in question must be punishable by law both in the country making the request and in Belgium;
- There can be no extradition of nationals (this should be assessed when Belgium receives the request);
- There must be a formal request for extradition, and that request must be reported to the individual under arrest within three weeks of detention. In the case of the countries bound by the 1957 Council of Europe Convention on Extradition, the deadline is 40 days;
- There can be no extradition for political acts or politically related acts;
- There can be no extradition for acts which carry the death penalty in the requesting country, unless the Belgian authorities are given sufficient guarantee that it will not be carried out;
- The principle of specialty will apply to extradition (the only charges which can be made against the individual concerned are those specifically authorized by the Belgian Government);
- There can be no extradition if the facts presented fall under a statute of limitations in the country requesting extradition and Belgium;
- There can be no re-extradition to a third country without the prior agreement of the Belgian Government.

The procedure followed in Belgium:

If the Belgian Government receives a request for detention for the purpose of extradition, the Federal Justice Department verifies whether there is a treaty in force with the country making the request and checks that the individual targeted by the request is not a Belgian national. The foreign arrest warrant must receive an exequatur decision from a judge sitting in chambers. That decision may be appealed (to the indictments chamber) and a judicial review may be requested. If the exequatur decision is upheld, the individual detained is handed over to the Government. The Federal Justice Department simultaneously submits the extradition request to the indictments chamber. Its opinion cannot be appealed and is intended only for the Minister of Justice, who is not obliged to abide by it.

(3) Belgium's reservation to the application of article 1 of the European Convention on the Suppression of Terrorism applies only to that Convention. Countries which are not members of the Council of Europe cannot at present become parties to that Convention.